

REMARKS

Upon entry of this paper, no claims been amended, no claims have been cancelled, and no claims have been added as new claims. Thus, claims 1-52 are presently pending in this application. No new matter has been added.

Prior to discussing the substantive rejections below, applicant wishes to provide a brief summary of some of the features relating to what he regards as his invention as claimed in the pending application. This Summary is not intended to convey all of the inventive aspects of the present invention. Instead, this Summary is intended to merely point out some of the features that have been identified as relevant to the rejections stated in the Office Action.

Applicant wishes to point out that “[t]he described implementations provide a technique where the patch itself is able to determine whether the patch installation is compatible with the host 2 configuration. The realization detectors 30a, b...n are able to verify the capabilities of the host 2 indirectly through a host object 16. In certain described implementations, the only modification the detector programs 36 included with the realization detector 30a, b...n may make is to write verification information to the realization list 52 in the host object 16. These restrictions on the access provided to the realization detectors 30a, b...n protects the host system 2 from the realization detector 30a, b...n inadvertently or malevolently performing harmful operations on the host system 2.” See specification, paragraph 0029.

Claim Rejections under 35 U.S.C. §102

Claims 1-52

Claims 1-52 were rejected under 35 U.S.C. §102 as being anticipated by US Publication No 2002/0174422 to Kelley (Kelley ‘422). This anticipatory rejection is respectfully traversed in view of the following comments.

Kelley ‘422 is generally directed to a system to securely install software upgrades and patches that includes determining which software upgrades and patches should be applied,

collecting the software upgrades and patches from vendors by downloading them from the vendor's ftp sites, and installing the software upgrades and patches. Embodiments of the system include interpreting how much memory and disk space is needed to install the software upgrades; interpreting the operating system type, version and architecture the software upgrades apply to; interpreting dependencies on other layered products; interpreting dependencies on other upgrades or patches, interpreting which files and directories will be affected by the installation of the software upgrades; backing out software upgrades and patches.

Kelley '422 does not disclose, "[a] method for determining patches to apply to a computer system, wherein the patches includes content to add to the computer, comprising: providing a realization list of realization identifiers corresponding to realizations associated with the computer, *wherein each realization defines a state of the computer*; *providing a realization database of realization objects*, wherein each realization object is uniquely identified by a realization identifier of one realization and includes a patch list indicating those patches whose installation relates to the computer state defined by the realization; accessing from the realization database the patch lists of those realization objects whose realization identifiers match the realizations identifiers on the realization list; determining all the patches on the accessed patch lists; and determining from the determined patches on the accessed patch lists those patches that are capable of being installed on the computer." See claim 1, see also claims 11, 16, 26, 31, 41, 46, and 52.

As claimed, the present invention provides the ability for a patch to determine whether the patch installation is compatible without requiring the intrusive interrogation of the host system, which creates opportunity for viruses and other malfeasance. The state realizations are stored in a separate database, and referenced to determine the appropriate patch for application. This system and method are not disclosed in Kelley '422.

To constitute an anticipation under 35 U.S.C. §102, all the claimed elements must be found in exactly the same situation and united in the same way to perform the identical function in a single unit of the prior art. That is, anticipation can only be established by a single prior art reference teaching each and every element of the claimed invention.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection. Applicant further respectfully submits that all claims are allowable over the cited references based on the lack of disclosure of the stated and claimed invention in the cited references.

CONCLUSION

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicant courteously solicits allowance of the claims in the form of a Notice of Allowance. Should there be any outstanding issues of patentability following the entry of this response, a telephone interview is respectfully requested to resolve such issues.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

By 

Sean D. Detweiler

Registration No.: 42,482

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant